

By: Representatives Carpenter, Arnold, Bell (21st), Boyd, Chism, Criswell, Denny, Eubanks, Frierson, Hopkins, Horan, Lamar, Mangold, Morgan, Rogers (61st), Rushing, Shows, Staples, Touchstone To: Judiciary B

HOUSE BILL NO. 1408

1 AN ACT TO AMEND SECTION 45-9-101, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT A PERSON WHO IS A MEMBER OF ANY ACTIVE OR RESERVE
3 COMPONENT BRANCH OF THE UNITED STATES ARMED FORCES AND POSSESSES A
4 VALID MILITARY IDENTIFICATION CARD VERIFYING SUCH MEMBERSHIP MAY
5 CARRY A STUN GUN, CONCEALED PISTOL OR CONCEALED REVOLVER WITHOUT
6 THE REQUIREMENT OF OBTAINING A LICENSE UNDER THIS SECTION; AND FOR
7 RELATED PURPOSES.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

9 SECTION 1. Section 45-9-101, Mississippi Code of 1972, is
10 amended as follows:

11 45-9-101. (1) (a) (i) Except as otherwise provided, the
12 Department of Public Safety is authorized to issue licenses to
13 carry stun guns, concealed pistols or revolvers to persons
14 qualified as provided in this section. Such licenses shall be
15 valid throughout the state for a period of five (5) years from the
16 date of issuance. Any person possessing a valid license issued
17 pursuant to this section may carry a stun gun, concealed pistol or
18 concealed revolver.

19 (ii) 1. A person who is a member of any active or
20 reserve component branch of the United States Armed Forces and



21 possesses a valid military identification card verifying such
22 membership may carry a stun gun, concealed pistol or concealed
23 revolver without the requirement of obtaining a license under this
24 section. Such a person must carry the military identification
25 card, together with other valid identification, at all times in
26 which the person is carrying a stun gun, concealed pistol or
27 concealed revolver and must display both the military
28 identification card and other valid identification upon demand by
29 a law enforcement officer. A violation of the provisions of this
30 item 1 shall constitute a noncriminal violation with a penalty of
31 Twenty-five Dollars (\$25.00) and shall be enforceable by summons.
32 For the purposes of this item 1, "component branch of the United
33 States Armed Forces" includes the Army, Navy, Air Force, Coast
34 Guard or Marine Corps, or the Army National Guard, the Army
35 National Guard of the United States, the Air National Guard or the
36 Air National Guard of the United States, as those terms are
37 defined in Section 101, Title 10, United States Code, and any
38 other reserve component of the United States Armed Forces
39 enumerated in Section 10101, Title 10, United States Code.

40 2. A person authorized to carry a stun gun,
41 concealed pistol or concealed revolver under this subparagraph
42 (ii) shall be subject to the provisions of subsection (13) of this
43 section.

44 (b) The licensee must carry the license, together with
45 valid identification, at all times in which the licensee is



46 carrying a stun gun, concealed pistol or revolver and must display
47 both the license and proper identification upon demand by a law
48 enforcement officer. A violation of the provisions of this
49 paragraph (b) shall constitute a noncriminal violation with a
50 penalty of Twenty-five Dollars (\$25.00) and shall be enforceable
51 by summons.

52 (2) The Department of Public Safety shall issue a license if
53 the applicant:

54 (a) Is a resident of the state and has been a resident
55 for twelve (12) months or longer immediately preceding the filing
56 of the application. However, this residency requirement may be
57 waived if the applicant possesses a valid permit from another
58 state, is active military personnel stationed in Mississippi, or
59 is a retired law enforcement officer establishing residency in the
60 state;

61 (b) (i) Is twenty-one (21) years of age or older; or

62 (ii) Is at least eighteen (18) years of age but
63 not yet twenty-one (21) years of age and the applicant:

64 1. Is a member or veteran of the United
65 States Armed Forces, including National Guard or Reserve; and

66 2. Holds a valid Mississippi driver's license
67 or identification card issued by the Department of Public Safety;

68 (c) Does not suffer from a physical infirmity which
69 prevents the safe handling of a stun gun, pistol or revolver;



70 (d) Is not ineligible to possess a firearm by virtue of
71 having been convicted of a felony in a court of this state, of any
72 other state, or of the United States without having been pardoned
73 for same;

74 (e) Does not chronically or habitually abuse controlled
75 substances to the extent that his normal faculties are impaired.
76 It shall be presumed that an applicant chronically and habitually
77 uses controlled substances to the extent that his faculties are
78 impaired if the applicant has been voluntarily or involuntarily
79 committed to a treatment facility for the abuse of a controlled
80 substance or been found guilty of a crime under the provisions of
81 the Uniform Controlled Substances Law or similar laws of any other
82 state or the United States relating to controlled substances
83 within a three-year period immediately preceding the date on which
84 the application is submitted;

85 (f) Does not chronically and habitually use alcoholic
86 beverages to the extent that his normal faculties are impaired.
87 It shall be presumed that an applicant chronically and habitually
88 uses alcoholic beverages to the extent that his normal faculties
89 are impaired if the applicant has been voluntarily or
90 involuntarily committed as an alcoholic to a treatment facility or
91 has been convicted of two (2) or more offenses related to the use
92 of alcohol under the laws of this state or similar laws of any
93 other state or the United States within the three-year period



94 immediately preceding the date on which the application is
95 submitted;

96 (g) Desires a legal means to carry a stun gun,
97 concealed pistol or revolver to defend himself;

98 (h) Has not been adjudicated mentally incompetent, or
99 has waited five (5) years from the date of his restoration to
100 capacity by court order;

101 (i) Has not been voluntarily or involuntarily committed
102 to a mental institution or mental health treatment facility unless
103 he possesses a certificate from a psychiatrist licensed in this
104 state that he has not suffered from disability for a period of
105 five (5) years;

106 (j) Has not had adjudication of guilt withheld or
107 imposition of sentence suspended on any felony unless three (3)
108 years have elapsed since probation or any other conditions set by
109 the court have been fulfilled;

110 (k) Is not a fugitive from justice; and

111 (l) Is not disqualified to possess a weapon based on
112 federal law.

113 (3) The Department of Public Safety may deny a license if
114 the applicant has been found guilty of one or more crimes of
115 violence constituting a misdemeanor unless three (3) years have
116 elapsed since probation or any other conditions set by the court
117 have been fulfilled or expunction has occurred prior to the date
118 on which the application is submitted, or may revoke a license if



119 the licensee has been found guilty of one or more crimes of
120 violence within the preceding three (3) years. The department
121 shall, upon notification by a law enforcement agency or a court
122 and subsequent written verification, suspend a license or the
123 processing of an application for a license if the licensee or
124 applicant is arrested or formally charged with a crime which would
125 disqualify such person from having a license under this section,
126 until final disposition of the case. The provisions of subsection
127 (7) of this section shall apply to any suspension or revocation of
128 a license pursuant to the provisions of this section.

129 (4) The application shall be completed, under oath, on a
130 form promulgated by the Department of Public Safety and shall
131 include only:

132 (a) The name, address, place and date of birth, race,
133 sex and occupation of the applicant;

134 (b) The driver's license number or social security
135 number of applicant;

136 (c) Any previous address of the applicant for the two
137 (2) years preceding the date of the application;

138 (d) A statement that the applicant is in compliance
139 with criteria contained within subsections (2) and (3) of this
140 section;

141 (e) A statement that the applicant has been furnished a
142 copy of this section and is knowledgeable of its provisions;



143 (f) A conspicuous warning that the application is
144 executed under oath and that a knowingly false answer to any
145 question, or the knowing submission of any false document by the
146 applicant, subjects the applicant to criminal prosecution; and

147 (g) A statement that the applicant desires a legal
148 means to carry a stun gun, concealed pistol or revolver to defend
149 himself.

150 (5) The applicant shall submit only the following to the
151 Department of Public Safety:

152 (a) A completed application as described in subsection
153 (4) of this section;

154 (b) A full-face photograph of the applicant taken
155 within the preceding thirty (30) days in which the head, including
156 hair, in a size as determined by the Department of Public Safety,
157 except that an applicant who is younger than twenty-one (21) years
158 of age must submit a photograph in profile of the applicant;

159 (c) A nonrefundable license fee of Eighty Dollars
160 (\$80.00). Costs for processing the set of fingerprints as
161 required in paragraph (d) of this subsection shall be borne by the
162 applicant. Honorably retired law enforcement officers, disabled
163 veterans and active duty members of the Armed Forces of the United
164 States shall be exempt from the payment of the license fee;

165 (d) A full set of fingerprints of the applicant
166 administered by the Department of Public Safety; and



167 (e) A waiver authorizing the Department of Public
168 Safety access to any records concerning commitments of the
169 applicant to any of the treatment facilities or institutions
170 referred to in subsection (2) and permitting access to all the
171 applicant's criminal records.

172 (6) (a) The Department of Public Safety, upon receipt of
173 the items listed in subsection (5) of this section, shall forward
174 the full set of fingerprints of the applicant to the appropriate
175 agencies for state and federal processing.

176 (b) The Department of Public Safety shall forward a
177 copy of the applicant's application to the sheriff of the
178 applicant's county of residence and, if applicable, the police
179 chief of the applicant's municipality of residence. The sheriff
180 of the applicant's county of residence and, if applicable, the
181 police chief of the applicant's municipality of residence may, at
182 his discretion, participate in the process by submitting a
183 voluntary report to the Department of Public Safety containing any
184 readily discoverable prior information that he feels may be
185 pertinent to the licensing of any applicant. The reporting shall
186 be made within thirty (30) days after the date he receives the
187 copy of the application. Upon receipt of a response from a
188 sheriff or police chief, such sheriff or police chief shall be
189 reimbursed at a rate set by the department.



190 (c) The Department of Public Safety shall, within
191 forty-five (45) days after the date of receipt of the items listed
192 in subsection (5) of this section:

193 (i) Issue the license;

194 (ii) Deny the application based solely on the
195 ground that the applicant fails to qualify under the criteria
196 listed in subsections (2) and (3) of this section. If the
197 Department of Public Safety denies the application, it shall
198 notify the applicant in writing, stating the ground for denial,
199 and the denial shall be subject to the appeal process set forth in
200 subsection (7); or

201 (iii) Notify the applicant that the department is
202 unable to make a determination regarding the issuance or denial of
203 a license within the forty-five-day period prescribed by this
204 subsection, and provide an estimate of the amount of time the
205 department will need to make the determination.

206 (d) In the event a legible set of fingerprints, as
207 determined by the Department of Public Safety and the Federal
208 Bureau of Investigation, cannot be obtained after a minimum of two
209 (2) attempts, the Department of Public Safety shall determine
210 eligibility based upon a name check by the Mississippi Highway
211 Safety Patrol and a Federal Bureau of Investigation name check
212 conducted by the Mississippi Highway Safety Patrol at the request
213 of the Department of Public Safety.



214 (7) (a) If the Department of Public Safety denies the
215 issuance of a license, or suspends or revokes a license, the party
216 aggrieved may appeal such denial, suspension or revocation to the
217 Commissioner of Public Safety, or his authorized agent, within
218 thirty (30) days after the aggrieved party receives written notice
219 of such denial, suspension or revocation. The Commissioner of
220 Public Safety, or his duly authorized agent, shall rule upon such
221 appeal within thirty (30) days after the appeal is filed and
222 failure to rule within this thirty-day period shall constitute
223 sustaining such denial, suspension or revocation. Such review
224 shall be conducted pursuant to such reasonable rules and
225 regulations as the Commissioner of Public Safety may adopt.

226 (b) If the revocation, suspension or denial of issuance
227 is sustained by the Commissioner of Public Safety, or his duly
228 authorized agent pursuant to paragraph (a) of this subsection, the
229 aggrieved party may file within ten (10) days after the rendition
230 of such decision a petition in the circuit or county court of his
231 residence for review of such decision. A hearing for review shall
232 be held and shall proceed before the court without a jury upon the
233 record made at the hearing before the Commissioner of Public
234 Safety or his duly authorized agent. No such party shall be
235 allowed to carry a stun gun, concealed pistol or revolver pursuant
236 to the provisions of this section while any such appeal is
237 pending.



238 (8) The Department of Public Safety shall maintain an
239 automated listing of license holders and such information shall be
240 available online, upon request, at all times, to all law
241 enforcement agencies through the Mississippi Crime Information
242 Center. However, the records of the department relating to
243 applications for licenses to carry stun guns, concealed pistols or
244 revolvers and records relating to license holders shall be exempt
245 from the provisions of the Mississippi Public Records Act of 1983,
246 and shall be released only upon order of a court having proper
247 jurisdiction over a petition for release of the record or records.

248 (9) Within thirty (30) days after the changing of a
249 permanent address, or within thirty (30) days after having a
250 license lost or destroyed, the licensee shall notify the
251 Department of Public Safety in writing of such change or loss.
252 Failure to notify the Department of Public Safety pursuant to the
253 provisions of this subsection shall constitute a noncriminal
254 violation with a penalty of Twenty-five Dollars (\$25.00) and shall
255 be enforceable by a summons.

256 (10) In the event that a stun gun, concealed pistol or
257 revolver license is lost or destroyed, the person to whom the
258 license was issued shall comply with the provisions of subsection
259 (9) of this section and may obtain a duplicate, or substitute
260 thereof, upon payment of Fifteen Dollars (\$15.00) to the
261 Department of Public Safety, and furnishing a notarized statement
262 to the department that such license has been lost or destroyed.



263 (11) A license issued under this section shall be revoked if
264 the licensee becomes ineligible under the criteria set forth in
265 subsection (2) of this section.

266 (12) (a) No less than ninety (90) days prior to the
267 expiration date of the license, the Department of Public Safety
268 shall mail to each licensee a written notice of the expiration and
269 a renewal form prescribed by the department. The licensee must
270 renew his license on or before the expiration date by filing with
271 the department the renewal form, a notarized affidavit stating
272 that the licensee remains qualified pursuant to the criteria
273 specified in subsections (2) and (3) of this section, and a full
274 set of fingerprints administered by the Department of Public
275 Safety or the sheriff of the county of residence of the licensee.
276 The first renewal may be processed by mail and the subsequent
277 renewal must be made in person. Thereafter every other renewal
278 may be processed by mail to assure that the applicant must appear
279 in person every ten (10) years for the purpose of obtaining a new
280 photograph.

281 (i) Except as provided in this subsection, a
282 renewal fee of Forty Dollars (\$40.00) shall also be submitted
283 along with costs for processing the fingerprints;

284 (ii) Honorably retired law enforcement officers,
285 disabled veterans and active duty members of the Armed Forces of
286 the United States shall be exempt from the renewal fee; and



287 (iii) The renewal fee for a Mississippi resident
288 aged sixty-five (65) years of age or older shall be Twenty Dollars
289 (\$20.00).

290 (b) The Department of Public Safety shall forward the
291 full set of fingerprints of the applicant to the appropriate
292 agencies for state and federal processing. The license shall be
293 renewed upon receipt of the completed renewal application and
294 appropriate payment of fees.

295 (c) A licensee who fails to file a renewal application
296 on or before its expiration date must renew his license by paying
297 a late fee of Fifteen Dollars (\$15.00). No license shall be
298 renewed six (6) months or more after its expiration date, and such
299 license shall be deemed to be permanently expired. A person whose
300 license has been permanently expired may reapply for licensure;
301 however, an application for licensure and fees pursuant to
302 subsection (5) of this section must be submitted, and a background
303 investigation shall be conducted pursuant to the provisions of
304 this section.

305 (13) No license issued pursuant to this section shall
306 authorize any person to carry a stun gun, concealed pistol or
307 revolver into any place of nuisance as defined in Section 95-3-1,
308 Mississippi Code of 1972; any police, sheriff or highway patrol
309 station; any detention facility, prison or jail; any courthouse;
310 any courtroom, except that nothing in this section shall preclude
311 a judge from carrying a concealed weapon or determining who will



312 carry a concealed weapon in his courtroom; any polling place; any
313 meeting place of the governing body of any governmental entity;
314 any meeting of the Legislature or a committee thereof; any school,
315 college or professional athletic event not related to firearms;
316 any portion of an establishment, licensed to dispense alcoholic
317 beverages for consumption on the premises, that is primarily
318 devoted to dispensing alcoholic beverages; any portion of an
319 establishment in which beer or light wine is consumed on the
320 premises, that is primarily devoted to such purpose; any
321 elementary or secondary school facility; any junior college,
322 community college, college or university facility unless for the
323 purpose of participating in any authorized firearms-related
324 activity; inside the passenger terminal of any airport, except
325 that no person shall be prohibited from carrying any legal firearm
326 into the terminal if the firearm is encased for shipment, for
327 purposes of checking such firearm as baggage to be lawfully
328 transported on any aircraft; any church or other place of worship;
329 or any place where the carrying of firearms is prohibited by
330 federal law. In addition to the places enumerated in this
331 subsection, the carrying of a stun gun, concealed pistol or
332 revolver may be disallowed in any place in the discretion of the
333 person or entity exercising control over the physical location of
334 such place by the placing of a written notice clearly readable at
335 a distance of not less than ten (10) feet that the "carrying of a
336 pistol or revolver is prohibited." No license issued pursuant to



337 this section shall authorize the participants in a parade or
338 demonstration for which a permit is required to carry a stun gun,
339 concealed pistol or revolver.

340 (14) A law enforcement officer as defined in Section 45-6-3,
341 chiefs of police, sheriffs and persons licensed as professional
342 bondsmen pursuant to Chapter 39, Title 83, Mississippi Code of
343 1972, shall be exempt from the licensing requirements of this
344 section. The licensing requirements of this section do not apply
345 to the carrying by any person of a stun gun, pistol or revolver,
346 knife, or other deadly weapon that is not concealed as defined in
347 Section 97-37-1.

348 (15) Any person who knowingly submits a false answer to any
349 question on an application for a license issued pursuant to this
350 section, or who knowingly submits a false document when applying
351 for a license issued pursuant to this section, shall, upon
352 conviction, be guilty of a misdemeanor and shall be punished as
353 provided in Section 99-19-31, Mississippi Code of 1972.

354 (16) All fees collected by the Department of Public Safety
355 pursuant to this section shall be deposited into a special fund
356 hereby created in the State Treasury and shall be used for
357 implementation and administration of this section. After the
358 close of each fiscal year, the balance in this fund shall be
359 certified to the Legislature and then may be used by the
360 Department of Public Safety as directed by the Legislature.



361 (17) All funds received by a sheriff or police chief
362 pursuant to the provisions of this section shall be deposited into
363 the general fund of the county or municipality, as appropriate,
364 and shall be budgeted to the sheriff's office or police department
365 as appropriate.

366 (18) Nothing in this section shall be construed to require
367 or allow the registration, documentation or providing of serial
368 numbers with regard to any stun gun or firearm.

369 (19) Any person holding a valid unrevoked and unexpired
370 license to carry stun guns, concealed pistols or revolvers issued
371 in another state shall have such license recognized by this state
372 to carry stun guns, concealed pistols or revolvers. The
373 Department of Public Safety is authorized to enter into a
374 reciprocal agreement with another state if that state requires a
375 written agreement in order to recognize licenses to carry stun
376 guns, concealed pistols or revolvers issued by this state.

377 (20) The provisions of this section shall be under the
378 supervision of the Commissioner of Public Safety. The
379 commissioner is authorized to promulgate reasonable rules and
380 regulations to carry out the provisions of this section.

381 (21) For the purposes of this section, the term "stun gun"
382 means a portable device or weapon from which an electric current,
383 impulse, wave or beam may be directed, which current, impulse,
384 wave or beam is designed to incapacitate temporarily, injure,



385 momentarily stun, knock out, cause mental disorientation or
386 paralyze.

387 (22) (a) From and after January 1, 2016, the Commissioner
388 of Public Safety shall promulgate rules and regulations which
389 provide that licenses authorized by this section for honorably
390 retired law enforcement officers and honorably retired
391 correctional officers from the Mississippi Department of
392 Corrections shall (i) include the words "retired law enforcement
393 officer" on the front of the license, and (ii) that the license
394 itself have a red background to distinguish it from other licenses
395 issued under this section.

396 (b) An honorably retired law enforcement officer and
397 honorably retired correctional officer shall provide the following
398 information to receive the license described in this section: (i)
399 a letter, with the official letterhead of the agency or department
400 from which such officer is retiring, which explains that such
401 officer is honorably retired, and (ii) a letter with the official
402 letterhead of the agency or department, which explains that such
403 officer has completed a certified law enforcement training
404 academy.

405 (23) A disabled veteran who seeks to qualify for an
406 exemption under this section shall be required to provide, as
407 proof of service-connected disability, verification from the
408 United States Department of Veterans Affairs.



409 (24) No license shall be required under this section for a
410 loaded or unloaded pistol or revolver carried in a purse, handbag,
411 satchel, other similar bag or briefcase or fully enclosed case.

412 **SECTION 2.** This act shall take effect and be in force from
413 and after July 1, 2016.

